

Appl. No.: 09/931,670  
Response dated September 16, 2003  
Reply to Office action of June 18, 2003

### Remarks

Favorable consideration and allowance of the instant application is respectfully requested in view of the foregoing amendments to the claims, and the following remarks.

Claims 11-12, 15, 18-22 are pending in this application.

Claim 13 has been cancelled, without prejudice. Claims 11 and 20 have been amended. No new matter is thought to be introduced thereby.

The Examiner's rejections, as they pertain to the patentability of the claims, are respectfully traversed.

Claims 11-13, 15, 18 and 20-22 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3, 6 and 9-13 of US 6,309,628. This rejection is respectfully traversed for the following reasons.

The Examiner's obviousness rejection is based on the reference's disclosure, in the examples, regarding the use of amodimethicone in one of its formulations. The claims, however, have now been amended so as to remove cationic silicone polymers as cationic polymer candidates, for the following reasons.

First, cationic silicone polymers are known to NOT be dispersible in water, unlike the remaining cationic polymer candidates disclosed in the claims. As a result, aqueous cosmetic compositions containing cationic silicone polymers will not perform effectively due to the silicones' poor water dispersibility profile.

Secondly, it is also known that compositions containing cationic silicones require the presence of extremely large amounts of surfactants therein, or else they will separate out of solution, as compared to those compositions containing non-silicone cationic polymers.

Lastly, it is known that silicones tend to show a build-up on hair which negatively impacts the dying and/or permanent waving/styling of hair. Clearly, therefore, it is seen that the use of cationic silicone polymers would be detrimental to the effectiveness of a cosmetic composition such as, for example, a hair shampoo. Consequently, the use of

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cationic silicone polymers is not intended by the present invention. Due to the deleterious effects associated with the use of a compound such as amodimethicone, which is exemplified in the '628 reference, it is believed that said reference fails to establish the obviousness of the present invention.

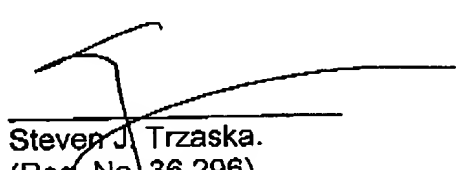
Accordingly, for all of the above-stated reasons, reconsideration and withdrawal of this rejection is respectfully requested.

With regards to the Examiner's assertion that a certified copy of the German priority document failing to be filed along with the present application, a certified copy has been ordered and will be forwarded to the Patent Office as soon as it is received.

It is believed that the foregoing reply is completely responsive under 37 CFR 1.111 and that all grounds for rejection are completely avoided and/or overcome. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

The Examiner is requested to telephone the undersigned attorney if any further questions remain which can be resolved by a telephone interview.

Respectfully submitted,

  
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